

Reference # B-04-010

This Hardware and Services Agreement hereinafter referred to as the "Agreement" or "contract" is made by and between the **State of Connecticut**, acting by its Department of Information Technology/Contracts & Purchasing Division, hereinafter referred to as the "Department" or "State," located at 101 East River Drive East Hartford, CT 06108, and **ePlus Technology, inc.**, hereinafter referred to as the "Contractor," or "Supplier," having a place of business at 80 Hudson Road, Canton, MA 02021.

In consideration of the mutual promises and covenants in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. DEFINITIONS

a) "Contract User" as used herein, shall mean All Using State Agencies, Political Sub-Divisions, Municipalities and Non-Profits.

b) "Department" as used herein, shall mean the Department of Information Technology.

c) "RFP" as used herein, shall mean the Request for Proposal No. 03ITZ0417 issued by the State on December 3, 2003, concerning Cisco Routers & Services.

d) "System" as used herein, shall mean Contractor furnished or otherwise supplied hardware, software and documentation that collectively and in an integrated fashion fulfill the business and technical requirements of the RFP and, as may be further defined pursuant to this Agreement.

e) "Deliverable" as used herein, shall mean any product, whether hardware, software, documentation, license, information or otherwise, or any service, whether development, integration, administrative, maintenance, operations, support, or otherwise, or any warranty, that is an element of the Contractor's overall approach and solution to the requirements of the RFP, whether produced by the Contractor or by a third party as a supplier or subcontractor to the Contractor, that is agreed to be provided to the State by the Contractor pursuant to this Agreement.

f) "Product Schedule" as used herein, which is attached to this Agreement, shall mean that document which establishes the component or unit pricing, and price schedules and terms as applicable, for every Deliverable available pursuant to this Agreement.

g) "Alterations" as used herein, shall mean modifications made by the State or the Contract User to any Deliverable thereby making such Deliverable non-conformant with Contractor design and/or operation specifications.

h) "Improvements" as used herein, shall mean Contractor changes made to Deliverables from time to time either to provide additional functions for Contract User's use or to correct errors and other performance deficiencies noted by the Department and reported to Contractor.

i) "Purchase Order" as used herein, shall mean a document issued by the State or Contract User's Purchasing Division on behalf of the State or Contract User for one or more Deliverables in accordance with the terms and conditions of this Agreement.

j) "Site" as used herein, shall mean a location of a computer system or systems consisting of one processing unit (PU) or multiple interconnected processing units.

k) "Specifications" as used herein, shall mean the Contractor's published technical and non-technical detailed descriptions of a Deliverable's capabilities and/or intended use.

l) "POP" (Primary Operation Period) as used herein, shall mean the days and hours of normal system operations and availability, which is to be 24 hours a day, 7 days a week, 365 days a year.

m) "PPM" (Prime Period Maintenance) as used herein, shall mean maintenance services and/or technical support performed between 8:00 AM and 5:00 PM Monday through Friday, Eastern Time exclusive of published State holidays. Maintenance services and/or technical support performed during any other time is hereinafter referred to as "Non-PPM" (Non-Prime Period Maintenance).

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n) "Warranty Period" as used herein, shall mean the ninety (90) days following acceptance by the Department of the System after successful completion of all Site Acceptance Tests.

2. TERM OF AGREEMENT

This Agreement shall become effective upon its approval as to form by the Office of the Attorney General of the State of Connecticut and shall continue for a two (2) year term with options for two (2) extensions of one (1) year each subject to the provisions of Connecticut General Statutes (C.G.S.) §4d-44.

Notwithstanding any provision or language in this Agreement to the contrary, the Commissioner may terminate this contract whenever he/she determines in his/her sole discretion that such termination is in the best interests of the State. Any such termination shall be effected by delivery to the Contractor of a written notice of termination. The notice of termination shall be sent by registered mail to the Contractor address furnished to the State for purposes of correspondence or by hand delivery. Upon receipt of such notice, the Contractor shall both immediately discontinue all services affected (unless the notice directs otherwise) and deliver to the State all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing his duties under this contract, whether completed or in progress. All such documents, information, and materials shall become the property of the State. In the event of such termination, the Contractor shall be entitled to be paid for work completed, delivered and accepted by the State as of the effective date of termination, however, no compensation for lost profits shall be allowed.

3. ACQUIRING DELIVERABLES

a) Subject to the terms and conditions of this Agreement, Contractor shall sell, transfer, convey and/or license to the Department any duly ordered Deliverable. Such Deliverables shall be available in the Product Schedule and listed in Purchase Orders issued by the Contracting Agency's Contracts and Purchasing Division. Such Purchase Orders shall contain, at minimum, the following related information:

- 1) Delivery Site and Department Contact Person
- 2) Identity of this Agreement by Reference Number
- 3) Contractor Contact Person and Contact Information
- 4) For hardware Deliverables:
 - a. Product Number, Description and Quantity
 - b. Applicable rate, license term, and quantity extensions
 - c. Applicable installation and other one-time charge rate(s)
 - d. Applicable maintenance and support provisions and rate(s)
 - e. Applicable product maintenance and support zone & surcharge rate(s)
- 5) For services:
 - a. Description of service
 - b. Quantity of hours or days to be purchased, by service level classification
 - c. Applicable Project Implementation and Quality Assurance Plans
- 6) Purchase Order Project Implementation Summary
- 7) Current Product Schedule
- 8) Purchase Order Invoice Schedule
- 9) Purchase Order Total Cost
- 10) Valid authorization from Contracts and Purchasing Division

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b) Any Purchase Order, which has been accepted by the Contractor, shall be subject to the terms and conditions of this Agreement and shall remain subject to the terms and conditions of this Agreement until such time as the requirements of the Purchase Order have been completed, as provided upon State acceptance of the Deliverables contained therein, or extended or terminated sooner under the terms of this Agreement.

c) Contractor may supplement the Product Schedule at any time to make additional products, services and related terms available to the State, provided that the effective date of each supplement is stated thereon. Any supplement must be transmitted to the State with a cover letter documenting formal approval of the supplement by a Contractor representative then legally empowered to so act. The Product Schedule may be updated from time to time by the Supplier requesting the addition of a new service in writing to the State. The addition or upgrading of a service is conditioned upon the new service being of a similar nature and having a similar use as the Services set forth in this Agreement and the written approval of the Customer.

d) Contractor shall provide State with a discount on any Product Schedule pricing according to Contractor's discount policy in effect when a Purchase Order is placed or according to the discount shown on the Product Schedule, whichever is greater.

4. PAYMENTS & CREDITS

The Department shall pay charges for Deliverables shown in each Purchase Order after receipt of the Contractor properly documented non disputed invoice. Any such charges for a partial month or period shall be prorated. Charges for associated services shall apply starting with the relevant dates specified in the pertinent Purchase Orders.

a) Contractor shall furnish separate invoices for each Purchase Order, maintenance and support charge or other charge shall be included as separate line items on such invoices.

b) It shall be the responsibility of the Department to pay any charges due hereunder within forty-five (45) days after the receipt or a properly documented non disputed invoice.

c) Failure by the Department to make payment within the forty-five (45) day period after which the Deliverables have been rendered and an undisputed invoice provided, shall not constitute a default or breach, but rather, shall entitle Contractor to receive interest on the undisputed amount outstanding after said forty-five (45) days in accordance with State of Connecticut statutes.

5. HARDWARE MAINTENANCE & SUPPORT

a) Contract User shall be responsible for site work external to, but required for, hardware Deliverable installation and for Contractor maintenance time and material costs of hardware Deliverable repairs necessitated by Contract User misuse or negligence.

b) Contractor shall maintain sufficient installed hardware Deliverable support services staff, replacement hardware Deliverable and ancillary equipment to satisfy the preventive and remedial maintenance requirements.

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c) Contractor shall have full and free access to any hardware Deliverable to provide required service thereon. Contractor shall maintain an on-site hardware Deliverable log to contain brief descriptions of Contract User's reported problems and the associated remedial or scheduled preventive maintenance services performed on any installed hardware Deliverable.

d) Preventive maintenance shall be provided at a time mutually agreeable to Contract User and Contractor, and may be charged to Contract User at Non-PPM service rates unless scheduled during a PPM period. Preventive maintenance shall conform to the hardware Deliverable manufacturer's recommended schedules and procedures, and may be performed concurrently with remedial maintenance.

e) At Contract User's option, any Contractor PPM service may be extended to cover any Non-PPM period by the State's ordering and paying for such additional Maintenance coverage period(s) according to the Product Schedule's provisions for: (1) On-Call (unscheduled) hourly rate Non-PPM, and/or, (2) scheduled Non-PPM surcharge(s). The omission on the Product Schedule of Maintenance Charges for said extended periods of maintenance indicates that such additional maintenance coverage is not offered by the Contractor.

6. WARRANTIES

Contractor will provide a ninety-day (90) warranty from the date of product acceptance. Product acceptance consists of signature approval by the State of a Contractor invoice. The warranty will cover parts, labor, firmware upgrades, software upgrades, and all shipping. Contractor will provide advance replacement for any customer installable equipment that fails during warranty. The Contractor will provide advanced replacement and return at no cost to the State and advance replacement shipping will be provided via same-day or overnight express.

7. CONFIDENTIALITY; NONDISCLOSURE

a) All material and information provided to the Contractor by the State or Contract User or acquired by the Contractor in performance of the Contract whether verbal, written, recorded magnetic media, cards or otherwise shall be regarded as confidential information and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with federal and state statutes and regulations. The Contractor agrees that it is prohibited from releasing any and all information provided by the State or Contract User or providers or any information generated by the Contractor without the prior express written consent of the State of Contract User.

b) Contractor hereby agrees that:

- 1) All State or Contract User information exposed or made available to Contractor or its representatives is to be considered confidential and handled as such.
- 2) Any such State or Contract User information is not to be removed, altered, or disclosed to others in whole or in part by Contractor and its representatives.
- 3) All State or Contract User security procedures shall be adhered to by Contractor and its representatives.

c) It is expressly understood and agreed that the obligations of this Section 7 shall survive the termination of this Agreement.

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8. RISK OF LOSS & INSURANCE

a) The State or Contract User shall not be liable to Contractor for any risk of loss or damage while Deliverable is in transit to or from a State or Contract User installation site, or while in the State or Contract User's possession, except when such loss or damage is due directly to Department or Contract User's negligence or willful misconduct.

b) In the event Contractor employees or agents enter premises occupied by or under control of the State or Contract User in the performance of their responsibilities, Contractor shall indemnify and hold State or Contract User harmless from and defend it against any loss, cost, damage, expense or liability by reason of tangible property damage or personal injury, of any nature or any kind, caused by the performance or act of commission or omission of said employees or agents. Without limiting the foregoing, Contractor shall maintain public liability and property damage insurance within reasonable limits covering the obligations contained herein, and shall maintain proper workers' compensation insurance in accordance with Section 27. WORKERS' COMPENSATION.

9. DELIVERABLE ALTERATIONS

a) Alterations of any hardware Deliverable may be made only with the prior written consent of Contractor and/or manufacturer. Such consent shall not be unreasonably withheld or delayed and shall be provided without cost to the State or Contract User.

b) If any Deliverable Alteration interferes with the normal and satisfactory operation or maintenance and support of any Deliverable or increases substantially the costs of maintenance and support thereof or creates a safety hazard, the State or Contract User shall, upon receipt of written notice from Contractor, promptly restore the Deliverable to its pre-altered condition.

10. LIMITATION OF LIABILITY

a) In no event shall either party be liable for special, indirect or consequential damages except as may otherwise be provided for in this Agreement.

b) Contractor shall indemnify, defend and hold harmless the State and Contract User from and against all:

- 1) Actions, suits, claims, investigations or legal or administrative or arbitration proceedings pending or threatened, whether at law or in equity in any forum (collectively, "Claims") arising, directly or indirectly, in connection with this Agreement including, but not limited to, acts of commission or omission, (collectively, the "Acts") by the Contractor or any of its members, directors, officers, shareholders, representatives, agents, servants, consultants, employees or any other person or entity with whom the Contractor is in privity of oral or written contract (collectively, "Contractor Parties")
- 2) Liabilities arising, directly or indirectly, in connection with this Agreement, out of the Contractor's or Contractor Parties' Acts concerning its or their duties and obligations as set forth in this Agreement

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- 3) Damages, losses, costs and expenses, including but not limited to, reasonable attorneys' and other professionals' fees, that may arise out of such Claims and/or liabilities for bodily injury and/or property damage

11. FORCE MAJEURE

Neither party shall be responsible for delays or failures in its obligations herein due to any cause beyond its reasonable control. Such causes shall include, but not be limited to, strikes, lockouts, riot, sabotage, rebellion, insurrection, acts of war or the public enemy, unavailable raw materials, telecommunication or power failure, fire, flood, earthquake, epidemics, natural disasters, terrorist attacks and acts of God.

12. REMEDIES AND LIQUIDATED DAMAGES**12.1 Understanding and Expectations**

The Contractor agrees and understands that the State may pursue contractual remedies for both programmatic and financial noncompliance. The Department, at its discretion, may impose or pursue one or more remedies for each item of noncompliance and will determine sanctions on a case-by-case basis. The Department's pursuit or non-pursuit of a tailored administrative remedy shall not constitute a waiver of any other remedy that the Department may have at law or equity. The remedies described in this Section are directed to the Contractor's timely and responsive performance of the Deliverables.

12.2 Administrative Remedies

a) Contractor responsibility for improvement: The Department expects the Contractor's performance to continuously meet or exceed performance criteria over the term of this Agreement. Accordingly, Contractor shall be responsible for ensuring that performance for a particular activity or result that fails to meet the requirements of the Project Implementation Summary or this Agreement must improve within thirty (30) days of written notice from the Department regarding the deficiency.

b) Notification and interim response: If the Department identifies areas of Contractor performance that fail to meet performance expectations, standards, or schedules, but which, in the determination of the Department, do not result in a material delay in the implementation or operation of the System, the Department will notify Contractor of such deficiency or exception. Contractor shall within three (3) business days of receipt of written notice of such a non-material deficiency, provide the Department Project Manager a written response that

- 1) Explains the reasons for the deficiency, the Contractor's plan to address or cure the deficiency, and the date and time by which the deficiency will be cured, or
- 2) If Contractor disagrees with the Department's findings, its reasons for disagreeing with the Department's findings.

c) Contractor's proposed cure of a non-material deficiency is subject to the approval of the Department. Contractor's repeated commission of non-material deficiencies or repeated failure to resolve any such deficiencies may be regarded by the Department as a material deficiency and entitle the

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Department to pursue any other remedy provided in this Agreement or any other appropriate remedy the Department may have at law or equity.

d) **Corrective Action Plan:** the Department may require the Contractor to submit to the Department a detailed written plan (the "Corrective Action Plan") to correct or resolve the deficiency. The Corrective Action Plan must provide a detailed explanation of the reasons for the cited deficiency, the Contractor's assessment or diagnosis of the cause, and a specific proposal to cure or resolve the deficiency. The Corrective Action Plan must be submitted within ten (10) business days following the request for the plan by the Department and is subject to approval by the Department, which approval shall not unreasonably be withheld. Notwithstanding the submission and acceptance of a Corrective Action Plan, Contractor remains responsible for achieving all oral and written performance criteria. The acceptance of a Corrective Action Plan under this Section shall not excuse prior substandard performance, relieve Contractor of its duty to comply with performance standards, or prohibit the Department from assessing additional remedies or pursuing other approaches to correct substandard performance.

e) **Additional remedies:** the Department at its own discretion may impose one or more of the following remedies for each item of noncompliance or sub-standard performance and will determine the scope and schedule of the remedy on a case-by-case basis. Both Parties agree that a state or federal statute, rule, regulation or guideline will prevail over the provisions of this Section unless the statute, rule, regulation, or guidelines can be read together with this Section to give effect to both.

- 1) Corrective Action Plans
- 2) Additional, more detailed, financial, programmatic and/or ad hoc reporting by the Contractor, at no cost to the Department, to address performance issues
- 3) Pass-through of a proportional share of federal disallowances and sanctions/penalties imposed on the State and resulting from the Contractor's performance or non-performance under this Agreement
- 4) Assess liquidated damages pursuant to Section 11.3., below, and deduct such damages against Contractor payments as set-off

The Department will formally notify the Contractor of the imposition of an administrative remedy in accordance with paragraph (b) of this Section. Contractor is required to file a written response to such notification in accordance with paragraph (b) of this Section.

f) **Review of administrative remedies:** Contractor may request a review of the imposition of the foregoing remedies. Contractor must make the request for review in within ten (10) business days of receipt of written notification of the imposition of a remedy by the Department.

12.3 Liquidated Damages

- 1) Contractor shall bear the cost of all claims, judgments, legal fees, and associated costs due to negligence, willful misconduct, security breach or any other cause that is directly attributable to the Contractor's performance under this Agreement
- 2) **Cap on damages:** Damages imposed pursuant to this Agreement shall not in the aggregate exceed 100% of the Total Project Cost of this Agreement

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- 3) Method of Payment: The State may elect to assess a liquidated damage directly to the Contractor, or it may deduct amounts assessed as liquidated damages as set-off against payments then due to the Contractor or which become due at any time thereafter

13. TERMINATION OF AGREEMENT

This Section 13. TERMINATION OF AGREEMENT shall become effective upon approval of this Agreement and shall survive until successful completion of the Warranty Period. During the time this Section 13 remains in force, this Agreement shall be subject to termination according to the following and as otherwise provided in this Agreement:

a) Mutual Agreement

This Agreement may be terminated by mutual agreement, in writing, of the parties. The effective date of such termination and the responsibilities of the parties shall be set forth as a part of that Agreement.

b) Default by the Contractor

The State may, by written notice to Contractor, signed by the Project Administrator, terminate the Contractor's right to proceed under this Agreement if the Contractor:

- 1) Materially fails to perform the services within the time specified or any extension thereof; or
- 2) So fails to make progress as to materially endanger performance specified in this Agreement in accordance with its terms; or
- 3) Otherwise fails to perform any other material provisions of this Agreement; provided, however, that in such event the State, through the Project Administrator, shall give the Contractor at least thirty (30) days' prior written notice

Termination for default at the option of the State shall be effective thirty (30) days after receipt of such notice, unless the Contractor corrects said failure(s) within thirty (30) days after receipt by the Contractor of such written notice. In the event of such Agreement termination, the Contractor shall reimburse State and Contract User of all monies paid by the State or Contract User to Contractor under this Agreement and Contractor shall be liable to compensate the State or Contract User for any additional costs reasonably incurred by the Department in obtaining such services; provided that the failure to perform under this Agreement which results in termination pursuant to this Subsection 13.b arises out of cause or causes other than those described in Section 11. FORCE MAJEURE.

c) Termination by the Project Administrator

The Project Administrator, upon sixty (60) days' prior written notice to the Contractor, may terminate performance of work under this Agreement, in whole or in part, when it is in the best interest of the State or Contract User to do so. In the event of such termination, the Contractor will be compensated by State or Contract User for work performed prior to such termination date and for all reasonable costs to which the Contractor has, out of necessity, obligated itself as a result of this Agreement.

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14. TERMINATION OF PURCHASE ORDERS

In addition to as otherwise may be provided in this Agreement, the State or Contract User may terminate early and without penalty, and without default on the part of the Contractor, any associated service on any Purchase Order by releasing Contractor from further responsibility to provide the Deliverable, under the following conditions:

a) Termination in the Interest of the State or Contract User:

Upon thirty (30) days' prior written notice to Contractor, the State or Contract User may terminate any service and/or applicable Purchase Order(s), in whole or in part, when it is in the best interest of the State or Contract User to do so. In the event such termination pertains to associated service, the Contractor will be compensated for all work performed prior to and including such termination date.

b) Lack of Continued Funding

Upon ninety (90) days' written notice to Contractor, the State or Contract User may terminate any Deliverable license or associated service as of the first day of the period for which sufficient funds to meet its obligations under this Agreement are not appropriated or allocated. The State or Contract User shall pay any Deliverable charges due prior to the non-funded period. If the necessary funding becomes available within ninety (90) days of such termination, the State and Contract User and Contractor agree to resume said license or associated service, upon such funding becoming available, under the terms applicable to such license or associated service just prior to termination, unless such resumption is mutually declined.

15. GENERAL PROVISIONS

a) Section headings and document titles used in this Agreement are included for convenience only and shall not be used in any substantive interpretation of this Agreement.

b) If any term or condition of this Agreement is decided by a proper authority to be invalid, the remaining provisions of the Agreement shall be unimpaired and the invalid provision shall be replaced by a provision which, being valid, comes closest to the intention underlying the invalid provision.

c) The terms of all Deliverable(s), maintenance service rates/pricing, and associated offerings in this Agreement are equivalent to or better than those for comparable Contractor offerings to any other state or local government customer under like terms and conditions. If during the life of this Agreement Contractor provides more favorable terms for said offerings to another such customer, this Agreement shall thereupon be deemed amended to provide same to the State.

d) The failure at any time by either party to this Agreement to require performance by the other party of any provision hereof shall not affect in any way the full right to require such performance at any time thereafter. The waiver by either party of a breach of any such provision shall not constitute a waiver of the provision itself, unless such a waiver is expressed in writing and signed by a duly authorized representative of the waiving party.

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e) In any case where the consent or approval of either party is required to be obtained under this Agreement, such consent or approval shall not be unreasonably withheld or delayed. No such consent or approval shall be valid unless in writing and signed by a duly authorized representative of that party. Such consent or approval shall apply only to the given instance, and shall not be deemed to be a consent to, or approval of, any subsequent like act or inaction by either party.

f) This Agreement shall be deemed to have been made in the State of Connecticut and shall be governed in all respects by the laws of said State without giving effects to its conflicts of laws provisions.

g) The State and Contract User agrees not to remove or destroy any proprietary markings or proprietary legends placed upon or contained within any Deliverable.

h) Contractor covenants and agrees that it will not, without prior written consent from the State, make any reference to the Department or the State in any of Contractor's advertising or news releases.

i) Any Deliverable developed under this Agreement shall be the sole property of the State and the State shall have sole proprietary rights thereto. Contractor acknowledges and agrees that any program, process, equipment, proprietary know-how or other proprietary information or technology (and all associated documentation) that is produced or is the result of Contractor's performance of any work under this Agreement shall be owned solely by the State upon creation and Contractor shall have no rights in such property and Contractor agrees to execute any and all documents or to take any actions which may be necessary to fully effectuate the terms and conditions of this Section.

j) Notwithstanding the foregoing, the State grants Contractor rights to use, sell, distribute and incorporate within Contractors Deliverable base any and all programs, processes, proprietary know-how and other proprietary information or technology (and all associated documentation) that Contractor produces or that is the direct result of Contractor's performance of any work under this Agreement. Such rights will result in a royalty payment to the State in the amount of 40% of charges attributable to the sale of such portion of programs, processes, proprietary know-how and other proprietary information or technology (and all associated documentation) excepting there from any sale between Contractor and any Local, State, Federal Government, including agency or political subdivision thereof to which no charge will apply. This royalty payment will cease on the four-year anniversary date of this Agreement. Contractor will submit to the State an annual report itemizing such charges, if any, and accompanying the report with a check made payable to "Treasurer State of Connecticut" in the amount of the royalty fees due the State. Such report will be sent to the notice address in Section 18. COMMUNICATIONS, of this Agreement.

k) Neither Department nor Contractor shall employ an employee of the other party to this agreement for a period of one year after separation of that employee from the payroll of the other party or from the termination or expiration of this contract, whichever is later.

l) The Department, DOIT, the U.S. Attorney General, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor, which are directly pertinent to the work to be performed under this contract, for the purpose of making audits, examinations, excerpts and transcriptions.

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m) Time is of the essence: In consideration of the time limits for compliance with State law and Department procedures, time is of the essence on the performance of the Services under this Agreement.

16. ORDER OF PRECEDENCE

The Parties agree that all of the following documents are incorporated by reference into this Agreement. With regard to any inconsistencies that might arise, the following order of precedence shall be used:

- a) This Agreement
- b) RFP 03ITZ0417 and all Amendments
- c) Original Vendor Response dated January 28, 2004

17. YEAR 2000 AND OTHER DATE COMPLIANCE

a) The Contractor warrants that the system as a whole and each component of it, as applicable, is compliant with Year 2000 (Y2K) and all other dates, as specified in the business and technical requirements of the RFP.

b) Notwithstanding any provision to the contrary in any Contractor warranty or warranties, the remedies available to the State under this Year 2000 warranty shall include repair or replacement of any element of the System whose non-compliance with the Year 2000 warranty is discovered and made known to the Contractor in writing. This warranty remains in effect for 365 days following the Warranty Period of this agreement.

c) Nothing in this warranty shall be construed to limit any rights or remedies the State may otherwise have under this contract with respect to defects other than Year 2000 compliance.

d) In addition, the Contractor warrants that elements of the System modified or remediated to achieve Year 2000 compliance will remain unaffected with respect to their functioning or performance except for processing and exchanging date/time data. The Contractor warrants that Deliverables not being modified or remediated directly will remain unaffected with respect to their normal functioning or performance.

18. COMMUNICATIONS

Unless notified otherwise by the other party in writing, correspondence, notices, and coordination between the parties to this Agreement as to general business matters or the terms and conditions herein should be directed to:

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State: Connecticut Department of Information Technology
Contracts & Purchasing Division
101 East River Drive
East Hartford, CT 06108

Contractor: As stated in page one of this Agreement.

Details regarding Contractor invoices and all technical or day-to-day administrative matters pertaining to any Deliverable should be directed to:

Contract User: The individual specified in the applicable Purchase Order
Contractor: The individual designated by Contractor in the Proposal or other response to the RFP issued by the State.

Notices sent by United States mail with postage prepaid shall become effective when mailed.

"References in this section to "contract" shall mean this Contract and reference to "contractor" shall mean Contractor."

19. NONDISCRIMINATION AND AFFIRMATIVE ACTION PROVISIONS

This section is inserted in this contract in connection with Subsection (a) of Section 4a-60 of the General Statutes of Connecticut, as revised.

a) For the purposes of this section:

- 1) "Minority business enterprise" means any small Contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons:
 - a. Who are active in the daily affairs of the enterprise
 - b. Who have the power to direct the management and policies of the enterprise
 - c. Who are members of a minority, as such term is defined in Subsection (a) of Conn. Gen. Stat. Section 32-9n; and "good faith" means the degree of diligence that a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements
- 2) "Commission" means the commission on human rights and opportunities
- 3) "Public works contract" means any agreement between any individual, firm or corporation and the state or any political subdivision of the state other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees

b) The Contractor agrees and warrants that in the performance of the contract:

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- 1) Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by Contractor that such disability prevents performance of the work involved.
- 2) In all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission.
- 3) To provide each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding and each Contractor with which Contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4) To comply with each provision of this section and Conn. Gen. Stat. Sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. Sections 46a-56, 46a-68e and 46a-68f.
- 5) To provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and Conn. Gen. Stat. Section 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subContractors and suppliers of materials on such public works project.

c) Determination of the Contractor's good faith efforts shall include but shall not be limited to the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

e) The contractor shall include the provisions of Subsection b of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, contractor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for

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noncompliance in accordance with Conn. Gen. Stat. Section 46a-56; provided, if contractor becomes involved in, or is threatened with, litigation with a subcontractor or contractor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

f) The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

20. NONDISCRIMINATION PROVISIONS REGARDING SEXUAL ORIENTATION

This section is inserted in this contract in connection with Subsection (a) Section 4a-60a of the General Statutes of Connecticut, as revised.

a) The contractor agrees and warrants that in the performance of the contract:

- 1) contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation
- 2) To provide each labor union or representative of workers with which contractor has a collective bargaining agreement or other contract or understanding and each contractor with which contractor has a contract or understanding, a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment
- 3) To comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56 of the general statutes
- 4) To provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56 of the general statutes.

b) The contractor shall include the provisions of Subsection a of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, contractor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the general statutes; provided, if contractor becomes involved in, or is threatened with, litigation with a subcontractor or contractor as a result of such direction by the commission, the contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

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c) The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

21. EXECUTIVE ORDER NO. THREE

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be cancelled, terminated or suspended by the state labor commissioner for violation of or noncompliance with said Executive Order No. Three or any state or federal law concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the state labor commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the state labor commissioner to implement Executive Order No. Three, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the state labor commissioner.

22. EXECUTIVE ORDER NO. SIXTEEN

This contract is subject to the provisions of Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, and, as such, this contract may be canceled, terminated or suspended by the contracting agency for violation of or noncompliance with said Executive Order No. Sixteen.

The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Sixteen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting State shall have jurisdiction in providing its employees a reasonably safe and healthy working environment, free from intimidation, harassment, threats, and /or violent acts.

23. EXECUTIVE ORDER NO. SEVENTEEN

This contract is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be cancelled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

24. REPORTS TO THE AUDITORS OF PUBLIC ACCOUNTS

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This contract is subject to the provisions of §4-61dd Connecticut General Statutes. In accordance with this section any person having knowledge of any matter involving corruption, violation of state or federal laws or regulations, gross waste of funds, abuse of authority or danger to the public safety occurring in any large state contract, may transmit all facts and information in his possession concerning such matter to the Auditors of Public Accounts. In accordance with subsection (e) if an officer, employee or appointing authority of the contractor takes or threatens to take any personnel action against any employee of the contractor in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of this section, the contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the state or quasi- public agency may request the Attorney General to bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) contractor shall post a notice of the provisions of this section in a conspicuous place that is readily available for viewing by the employees of the contractor.

25. CONNECTICUT GENERAL STATUTES, § 1-200 AND 1-218

This contract is subject to the provisions of the Connecticut General Statutes, §1-200 and 1-218. Each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (1) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (2) indicate that such records and files are subject to the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the general statutes.

26. GENERAL STATUTES SECTION 4d-44

This contract is subject to the provisions of Connecticut General Statutes Section 4d-44 – Continuity of systems in event of expiration or termination of contract, amendment or subcontract or default of contractor or subcontractor. contractor agrees to ensure continuity of the System and related services, in the event that work under this contract is transferred back to the State or transferred to a different contractor, upon the expiration or termination of the contract, subcontract or amendment or upon the default of the contractor or subcontractor. Contractor provisions shall include, but not be limited to, (1) procedures for the orderly transfer to the State of (A) such facilities and equipment, (B) all software created or modified pursuant to the contract, subcontract or amendment, and (C) all public records, as defined in section 4d-33, which contractor or subcontractor possesses or creates pursuant to such contract, subcontract or amendment, and (2) procedures for granting former State employees who were hired by contractor or subcontractor the opportunity for reemployment with the State.

The parties agree to enter into an amendment to this contract as soon as practicable to set out the express terms to comply with the provisions of C.G.S. §4d-44.

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27. WORKERS' COMPENSATION

Contractor agrees to carry sufficient workers' compensation and liability insurance in a company, or companies, licensed to do business in Connecticut, and furnish certificates if required.

28. ENTIRETY OF AGREEMENT

This Agreement includes the SIGNATURE PAGE OF AGREEMENT. To the extent the provisions of the previously mentioned Deliverable Pricing Schedule, the Project Implementation Summary, the Project Implementation Schedule and any aforementioned Attachment do not contradict the provisions of Sections 1 through 28 of this Agreement, said documents are incorporated herein by reference and made a part hereof as though fully set forth herein. This Agreement, as thus constituted, contains the complete and exclusive statement of the terms and conditions agreed to by the parties hereto and shall not be altered, amended, or modified except in writing executed by an authorized representative of each party.

THE REMAINDER OF THIS PAGE IS PURPOSELY LEFT BLANK

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SIGNATURE PAGE OF AGREEMENT

This Agreement is entered into by authority of Sections 4d-2, 4d-5 and 4d-8 of the Connecticut General Statutes.

APPROVED:

FOR: ePlus Technology, inc.

FOR: STATE OF CONNECTICUT

BY: _____

NAME: Elaine D. Marion

TITLE: Vice President

BY: _____

Gregg P. Regan

Chief Information Officer

Department of Information Technology

duly authorized

DATE: _____

DATE: _____

APPROVED AS TO FORM:

Attorney General of the State of Connecticut

DATE _____

Product Schedule #1
Cisco Routers & Services
Hardware and Services Master Agreement # B-04-010

Cisco Systems Product Catalog and Global Price List

The Cisco Systems Product Catalog and Global Price List used by all VARs to determine their initial pricing response to this RFP shall be the version in effect as of the date of issuance of this RFP December 3, 2003. The percentage discount quoted ePlus Technology, inc's., response shall remain constant throughout the term of the contract and shall be applied to the Cisco Systems Product Catalog and Global Price List in effect at time of purchase. The Cisco Systems Product Catalog and Global Price List shall be used solely for purposes of defining the product offerings and prices to apply discounts. Any conditions or terms contained in the catalog or price list or future versions of these documents shall have no effect in any contract awarded by the State of Connecticut as a result of this RFP. Nothing in these documents or future versions of these documents shall be deemed to limit or clarify any obligation of the ePlus Technology, inc., stated in the RFP, nor shall it be deemed to impose any obligation on the State. ePlus Technology, inc., shall provide the State of Connecticut with an electronic copy of the Cisco Systems Product Catalog and Global Price List on a monthly basis. The State may take advantage of any interim pricing changes in the State's favor.

Included Costs

The State will not pay for travel time, shipping, or expenses. The State will not pay for labor charges for warranty service regardless of day or time.

Pricing Table

The Cisco Systems Product Catalog and Global Price List is being utilized as a benchmark for pricing purposes. Services may be provided by ePlus Technology, inc., or by Cisco.

Description of Products and Services		Discount off List pricing for the State of Connecticut
1	Percentage Discount from Cisco Systems Product Catalog and Global Price List for Router Products	39.1%
2	Percentage Discount from Cisco Systems Product Catalog and Global Price List for SmartNet Maintenance and Support	18.5%
3	Hourly Rate for Time and Materials Service 8am – 5pm Monday through Friday	\$58.00
4	Hourly Rate(s) for Time and Materials Service outside 8am – 5pm Monday through Friday	\$69.00
5	Hourly Rate(s) for Professional Services (e.g: Design Services, Consulting, Network Modeling/Simulation/Performance Review) Network Technician Router Configuration and installation (8am-5pm) Router Configuration and installation (outside 8am-5pm) Cisco CCNA Cisco CCNP Cisco CCIE	 \$58.00 \$79.00 \$95.00 \$90.00 \$100.00 \$116.00



May 21, 2004

Following is a list of contacts and escalation points for this agreement:

Primary Contact:

Ron Fraser
800-758-4357 x 1306
rfraser@eplus.com

Back Up and Level 1 Escalation

Steve Low
800-758-4357 x 1314 (8am-5pm M-F)
781-727-2281 (all other hours)
slow@eplus.com

Back Up and Level 2 Escalation

Kate Kapanakis
800-758-4357 x 1310 (8am-5pm M-F)
781-787-2289 (all other hours)
kkapanakis@eplus.com

Level 3 Escalation

Pete Sheehan
800-758-4357 x 1320 (8am-5pm M-F)
781-787-2293 (all other hours)
psheehan@eplus.com